

Angels Home Improvement Center, Inc. d/b/a Angels Home Center-San Bernardino and Lionel Richman.
Case 31-CA-2112

September 17, 1971

DECISION AND ORDER

BY CHAIRMAN MILLER AND MEMBERS
FANNING AND KENNEDY

On June 16, 1971, Trial Examiner George Christensen issued his Decision in the above-entitled proceeding, finding that the Respondent had engaged in and was engaging in certain unfair labor practices within the meaning of the National Labor Relations Act, as amended, and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the attached Trial Examiner's Decision. Thereafter, the Respondent filed exceptions to the Trial Examiner's Decision and a brief in support thereof. The General Counsel filed limited exceptions to the Trial Examiner's Decision together with a brief in answer to the Respondent's exceptions and in support of the Trial Examiner's Decision.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its powers in connection with this case to a three-member panel.

The Board has reviewed the rulings of the Trial Examiner made at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Trial Examiner's Decision, the exceptions and briefs, and the entire record in the case, and hereby adopts the findings,¹ conclusions, and recommendations² of the Trial Examiner.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Trial Examiner as modified below and hereby orders that the Respondent, Angels Home Improvement Center, Inc. d/b/a/ Angels Home Center-San Bernardino, San Bernardino, California, its officers, agents, successors, and assigns, shall take the action set forth in the Trial Examiner's recommended Order, as so modified.

1. Delete paragraph "1" of the Trial Examiner's recommended Order and substitute the following in lieu thereof:

"1. Cease and desist from:

"(a) Announcing and granting wage increases to dissuade its employees from supporting the Teamsters

and/or the Retail Clerks or any other labor organization.

"(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of their rights of self-organization, to form, join, or assist the Teamsters and/or Retail Clerks, or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from engaging in any or all such activities."

2. Substitute the attached notice for the Trial Examiner's notice.

¹ In adopting the Trial Examiner's factual findings, we do not rely on Behlke's affidavit which, having been used only to refresh Behlke's recollection at the hearing, was not admitted into evidence. See TXD fns 8 and 14

² Since we find merit in the General Counsel's exception to the Trial Examiner's failure, apparently through inadvertence, to recommend the full appropriate remedial order we shall modify his recommended Order accordingly

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Act gives all employees the right:

- To organize into a union
- To form, join, vote for, or help unions
- To bargain as a group through a union
- To act together for collective bargaining or other mutual aid or protection
- To refuse or refrain from any or all of these.

WE WILL NOT announce or grant wage increases at a time or in a manner so as to discourage our employees from joining, assisting, voting for, or supporting General Truck Drivers, Warehousemen & Helpers Union, Local 467, International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America and/or Retail Clerks Local 1167, Retail Clerks International Association, AFL-CIO, or any other labor organization.

WE WILL NOT, in any like or related manner, interfere with, coerce, or restrain our employees in the exercise of any of these rights, including the right to support, join, vote for, or choose Teamsters Local 467 and/or Retail Clerks Local 1167 or any other labor organization.

ANGELS HOME
IMPROVEMENT CENTER,
INC. D/B/A ANGELS
HOME CENTER-SAN
BERNARDINO
(Employer)

opportunity to introduce evidence, examine and cross-examine witnesses, argue, and file briefs. Briefs were filed by the General Counsel and Angels - San Bernardino.

Based upon his review of the entire record,⁴ observation of the witnesses, perusal of the briefs, and research, the Examiner enters the following:

FINDINGS OF FACT

I. JURISDICTION AND LABOR ORGANIZATION

The commerce facts and the qualification at all pertinent times of Angels - San Bernardino as an employer engaged in commerce in a business affecting commerce and the Teamsters and the Retail Clerks as labor organizations within the meaning of Section 2(2), (5), (6) and (7) of the Act are conceded by the parties and the Examiner so finds and concludes.

II. THE ALLEGED UNFAIR LABOR PRACTICES

A. *Company Structure and Operations*

During the time pertinent to this proceeding, Angels - San Bernardino consisted of a retail store from which building materials and home improvement items were sold to the general public. The store was one of a chain of four operating under the Angels name. The other three stores were located at El Monte, Pomona, and Norwalk, California; all four were serviced from a warehouse located at Montebello, California; the general headquarters and offices of the chain were located above the El Monte store.

Prior to 1968, the chain was owned and operated by the Sidney Kline family. It was sold by the Kline family to Daylin, Inc., in August 1968. Daylin continued operations unchanged as the Angels Division of Daylin, with Kline continuing to direct overall operations. Lester Morris continued to act as general manager and William Napier continued to act as the manager of the Angels - San Bernardino store. In June 1969 Edward Behlke became Daylin's director of personnel and industrial relations.⁵ As of January, only the warehouse employees were union-represented.

B. *Attempted Organization of the Angels - San Bernardino Employees*

In early February, the Teamsters began to organize Angels - San Bernardino's employees. On February 19 the Teamsters filed a petition with Region 21 seeking certification as the exclusive collective-bargaining representative of a unit of employees of Angels - San Bernardino.⁶

A hearing on the petition was conducted by the Region on May 8, 14, and 21. At that hearing, the Retail Clerks were added as joint petitioners. On September 4, the

involving the parties

³ Hereafter called Angels - San Bernardino

⁴ On May 24, 1971, Angels - San Bernardino moved for eight transcript corrections. No opposition was expressed to the motion. It is granted.

⁵ The Examiner finds that Kline, Morris, Napier, and Behlke were supervisors and agents of Angels - San Bernardino acting on its behalf at all times pertinent.

⁶ Case 31-RC-1360

Dated _____ By _____
(Representative) (Title)

This is an official notice and must not be defaced by anyone.

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material.

Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, Federal Building, Room 12100, 11000 Wilshire Boulevard, Los Angeles, California 90024, Telephone 213-824-7352.

TRIAL EXAMINER'S DECISION

STATEMENT OF THE CASE

GEORGE CHRISTENSEN, Trial Examiner: On February 17, 18, and 19, 1971, the Examiner conducted a hearing at San Bernardino, California, to try issues raised by a complaint issued on December 9, 1970,¹ (based upon a charge filed by Lionel Richman² on October 15 and an amended charge filed on December 9) alleging that Angels Home Improvement Center, Inc., d/b/a Angels Home Center-San Bernardino³ violated Section 8(a)(1) of the National Labor Relations Act, as amended (hereafter the Act), by granting wage increases (including a substantial number of retroactive payments) on the eve of an election scheduled by the Board in order to influence the votes of its employees in that election.

The parties conceded proper service of the charges, that at all pertinent times Angels - San Bernardino was an employer engaged in commerce in a business affecting commerce as those terms are defined in the Act, that Teamsters and Retail Clerks were labor organizations as that term is defined in the Act, and that a substantial number of the Angels - San Bernardino employees received wage increases shortly before the election in question, including many retroactive payments. Angels - San Bernardino contends, however, that it had lawful business reasons for effectuating the increase and therefore did not violate the Act.

The issue is the Company's motive for granting the increases.

All parties appeared by counsel and were afforded full

¹ Add 1970 to all subsequent date references wherein the year is not stated.

² Richman is counsel for General Truck Drivers, Warehousemen & Helpers Union Local 467, International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, hereafter called Teamsters. The Teamsters and Retail Clerks Local 1167, affiliated with Retail Clerks International Association, AFL-CIO, hereafter called Retail Clerks, were joint petitioners in the underlying representation proceeding

Regional Director issued his order finding appropriate for purposes of collective bargaining a unit consisting of:

All full-time and regular part-time employees of the Employer's store located at San Bernardino, California, engaged in the handling and sale of goods, including store salesmen, lumber salesmen, cashiers, stockers, loaders, forklift operators, warehousemen, truckdrivers, maintenance carpenters and janitors; but excluding all office clerical employees, guards and supervisors as defined in the Act, and all other employees.

The order further directed that all parties be furnished with a list of eligible voters within 7 days thereafter. The list furnished contained 59 names.

Angels - San Bernardino's appeal of this order to the Board was denied and, on October 6, the Region issued an order directing an election within the specified unit of employees for October 16.

In view of the October 15 charge filed in the instant case, the October 16 ballots were impounded. Following the issuance of the December 9 complaint in this case, the election was declared null and void (by order of the Region issued January 18, 1971).

C. Angels - San Bernardino's Response to the Organizational Campaign

Shortly after receiving a copy of the Teamsters February 19 petition (in late February-early March), Behlke conducted a series of interviews among both the managerial and unit employees at Angels - San Bernardino for the purpose, *inter alia*, of learning what had caused the employees to seek Teamsters representation. He learned that there was considerable dissatisfaction among the employees over their wages and particularly failure to give wage increases at the time intervals employees expected to receive them.⁷ Behlke informed Napier of this source of dissatisfaction.⁸ No action was taken to correct this source of dissatisfaction at that time.⁹

In March, Morris addressed a communication¹⁰ to all the unit employees at Angels - San Bernardino stating, *inter alia*, that:

We are, of course, concerned as to what circumstances may have caused a number of our employees to show an interest in such a labor organization, as our policy has always been to avail ourselves to our employees, to listen to their problems and to discuss subjects of interest with them at any time.

We do not believe the Teamsters Union would serve your best interest. We hope that you share with us this belief.

⁷ Angels - San Bernardino distributed a booklet to all employees in May of 1969 (and thereafter to new hires) stating:

[T]here is a thirty (30) day trial period for all new employees. At the end of this probationary period, your progress will be reviewed by your supervisors who will recommend either permanent employment with a merit raise or release.

Subsequent reviews do not guarantee wage increases, but increases will be granted within the wage rate range when merited.

Your demonstrated ability in job performance will enable you to advance very rapidly.

A second review will be made after the completion of five hundred and twenty (520) hours of continuous employment or ninety (90) days, whichever is greater.

Regularly scheduled reviews thereafter will be made at intervals of six

Following his receipt of the Region's September 4 order directing an October 16 election among the unit employees at Angels - San Bernardino, Behlke again scheduled a series of meetings with unit employees, meeting them in small groups of four or five. These meetings commenced about the middle of September and continued until shortly before the election. Behlke was accompanied by George Reyes,¹¹ recently appointed as director of personnel and industrial relations for the Angels division.

Either Behlke or Reyes in the course of these meetings described the array of benefits and practices affecting the unit employees; informed the employees that the Kline family no longer determined policy; solicited employee gripes or grievances and assured those employees who voiced them that they would be given careful consideration; expressed opposition to representation of the employees by the Teamsters and the Retail Clerks; requested that the employees give Daylin opportunity to show what it could and would do, particularly in the area of wage increases and a dental plan (numerous complaints about the former and inquiries regarding the latter were voiced in response to the solicitation of gripes or grievances).¹²

As a result of the earlier (September) discussions with Angels - San Bernardino unit employees, Behlke learned that Angels - San Bernardino's wage policy continued to be¹³ the major source of employee dissatisfaction. Accordingly, he directed Napier to check records of the unit employees and recommend wage increases for those who appeared entitled to them. Napier complied, recommending increases for 11 unit employees. Distrustful of Napier's judgment, Behlke (accompanied by an assistant, Don Haskell) went to the store and conducted his own investigation of employee records. He and Haskell decided that the store records were inadequate (they only went back for a limited period), continued their investigation at the chain's headquarters in El Monte, and finally determined that a total of 35 unit employees should be granted wage increases.

On September 24, Behlke and Haskell met with Kline, Morris, Reyes, and George Lehman (Lehman was selected to replace Kline at the conclusion of the latter's management contract). Behlke persuaded the managerial officers to authorize wage increases for the 35 employees in question, including retroactive payments to 19 of the 35. They were also persuaded to take the authority and responsibility for initiating requests for wage increases

months or one thousand and forty (1040) hours of continuous employment, whichever is greater.

⁸ The findings in this paragraph are based upon Behlke's testimony and affidavit.

⁹ As borne out by the personnel records of the unit employees at Angels - San Bernardino, which shall be discussed in more detail hereafter.

¹⁰ Behlke testified that he aided in the preparation of this document.

¹¹ The Examiner finds that Reyes was a supervisor and agent of Angels - San Bernardino acting on its behalf at all pertinent times.

¹² The findings in this paragraph are based upon the mutually corroborative testimony of Behlke, Napier, and unit employees Folsom, Staddan, Johnson, O'Brien, Sparks, Dixon, and Pagala.

¹³ See the earlier findings regarding Behlke's late February-early March employee interviews.

away from Napier (and other unit managers) and place it within the payroll department at the chain's headquarters.¹⁴ On the same date (September 24), Morris sent a letter to all the Angels - San Bernardino employees advising them that on September 4 the region had issued a decision directing an election at the San Bernardino store and that, while Angels - San Bernardino had appealed this decision, the election would probably be held in mid-October.

The proposed increases were promptly processed. The first increases (including retroactive payments) appeared in the October 2 paychecks of the Angels - San Bernardino unit employees and the balance appeared in their October 16 paychecks.¹⁵ Most, if not all, employees who received increases were informed they were coming by Napier prior to their receipt.¹⁶

At the late September employee meetings conducted by Behlke, he or Reyes announced the September 24 managerial decision to change the system for implementing wage increases and to grant increases to 35 of the unit employees, after employee Behlke heard again the same employee complaints over nonreceipt of anticipated wage increases he had heard in late February-March. In the October 5, 6, and 8 employee meetings held subsequent to such (September 28-29) announcement and the first payments thereof (on October 2), no further complaints over wage increases were voiced by the employees in attendance.

In December, increases were granted to employees at the other three stores in classification similar to those included within the unit at Angels - San Bernardino.¹⁷

In January 1971, a revised booklet was distributed to the employees at all four stores, setting out rate ranges for each job classification, an automatic wage progression system within each rate range based on length of service, and an announced annual review and updating of each rate range with corresponding adjustments each January 1 thereafter.

D. Contentions of the Parties

1. The General Counsel and the Unions

The General Counsel and the Unions contend that the granting of wage increases to approximately 59 percent of the employees within the unit (including retroactive payments covering as much as 5 months' retroactivity to approximately 32 percent of the unit employees), timed for payment shortly before the election, was designed to, and did interfere with, the employees' exercise of a free choice concerning whether or not they desired to be represented by the petitioning unions upon casting their ballots.

¹⁴ The findings in this and the preceding paragraph are based upon Behlke's testimony and affidavit.

¹⁵ Established by personnel records.

¹⁶ Napier so testified.

¹⁷ To 24 employees at Norwalk, 21 employees at Pomona, and 21 employees at El Monte.

¹⁸ A memorandum addressed to unit managers dated November 18, 1967, was received into evidence expressing this policy.

¹⁹ Behlke so testified.

²⁰ Behlke testified that the hourly service figures were added to cover part-time employees; Napier testified, however, that he made his reviews on the calendar dates. Napier also contradicted Behlke on the automatic

2. Angels - San Bernardino

Angels - San Bernardino contended that prior to the publication of the May 1969 booklet (see fn. 7), the store granted an automatic 10-cent wage increase after 30 days, 90 days, 1 year, and each anniversary date of employment for all employees retained in service over the requisite time periods¹⁸ with the time intervals between each increase running anew from the date of each promotion or change of classification;¹⁹ that while the *wording* of the May 1969 booklet indicated that the automatic feature was preserved only with regard to the first (30-day) increase, in actual practice the automatic feature was retained at *all* the review dates recited in the booklet, *i.e.*, after 30 days, after 90 days or 520 hours, and after each 6 months or 1,040 hours²⁰ of employment thereafter; that all the store did in October was to grant to the unit employees the wage increases which were due them under the preexisting wage policy which had been temporarily disrupted due to Napier's illness and the absence of his clerical assistant during the earlier part of 1970;²¹ and that the store would have been in violation of the Act if it had not effected the wage increases in question. As to the retroactive payments, it was contended that they were granted in order to conform to the increases with the dates they should have been "automatically" granted.

3. The rejoinder of the General Counsel and the Unions

The General Counsel and the Unions replied with an analysis of the wage increases granted to the Angels - San Bernardino unit employees prior to the increases in question and retroactive payments made, which, they contend, impeaches and discredits the foregoing contentions of Angels - San Bernardino.

E. Wage Increases and Retroactive Payments prior to September 4

The personnel records of 57 of the 59 Angels - San Bernardino employees within the unit were introduced into evidence.²² The record of one employee within the unit was incomplete.²³ Remaining records fail to support Angels - San Bernardino's contentions, either for the period of Napier's disability and his assistant's neglect, or for periods prior thereto as illustrated by the following randomly chosen examples:

1. E. Anderson was hired as a salesman at \$2.65 an hour and continued in that classification through September 4. His starting rate was \$2.65. If the automatic wage adjustment policy Angels - San Bernardino contended was practiced during Anderson's 1969-1970 employment was

nature of the 6-month increases, stating that while he conducted 6-month reviews, he requested approval for increases only at the 30-day, 90-day, and anniversary dates of employment.

²¹ Napier testified he was absent from work or working only parttime between March and the end of May due to a heart attack; that Carolyn Pascher, his clerical assistant charged with the duty of submitting requests to the central office for wage increases, was on assignment during much of this period to other stores to train cashiers; and that Billie Humphreys, Pascher's fill-in, neglected this task and gave priority to other of her clerical duties.

²² The records of A. Cervantes and V. Pagaca were not furnished.

²³ The record of R. Montecito was incomplete.

followed in his case, he should have received an increase of 10 cents on August 7, 1969, to \$2.75 an hour; another increase of 10 cents on October 7, 1969, to \$2.85 an hour; a further increase of 10 cents on January 7, 1970, to \$2.95 an hour; and, finally, an increase of 10 cents on July 7, 1970, to \$3.05 an hour. In actuality, he received a nonretroactive increase of 10 cents per hour on December 22, 1969, to \$2.75 an hour; a second nonretroactive increase of 10 cents per hour on June 8, 1970, to \$2.85 per hour, and no further increases through the balance of 1970.

2. D. Duda was hired as a stocker on March 7, 1970 at \$1.75 per hour and continued in that classification through September 4. Were the alleged policy followed in his case, he should have received a 10-cent increase on April 7 to \$1.85 and a second 10-cent increase on June 7 to \$1.95. He actually received a single nonretroactive increase during the period in question (March 7 - September 4) of 20 cents to \$1.95 on June 8.

3. G. Hamon was hired as a loader on September 28, 1968 at \$2.00 an hour. On November 1, 1968, his classification was changed to yard stacker. His records show no change in classification following that date through September 4. Were the alleged policy followed in his case, he should have received a 10-cent increase to \$2.10 on October 28, 1968; assuming the starting rate for his new classification was \$2.10, he should have received a 10-cent increase to \$2.20 on December 1, 1968; 10-cent-an-hour increase to \$2.30 on February 1, 1969; 10-cent-an-hour increase to \$2.40 on May 1, 1969; 10-cent-an-hour increase on November 1, 1969, to \$2.50; and 10-cent-an-hour increase on May 1, 1970, to \$2.60. He received a 10-cent increase on November 1, 1968, to \$2.10; a 35-cent increase on January 6, 1969, to \$2.45; a 20-cent increase to \$2.65 on September 15, 1969 (after an earlier request of July 21, 1969, for approval of a 20-cent increase either was denied or not acted upon); and a 10-cent increase to \$2.75 on November 10, 1969. None of the increases were retroactive. No increases were granted to Hamon between November 10, 1969, and September 4, 1970.

4. S. Napier was hired as a loader on January 26, 1970, at \$1.75 per hour and continued in that classification through September 4. Under the alleged policy, he should have received a 10-cent increase on February 26 to \$1.85; a second 10-cent increase on April 26 to \$1.95, and a third 10-cent increase on July 26 to \$2.05. He received one nonretroactive increase between January 26 and September 4; a 10-cent increase on August 17 to \$1.85.

5. E. Ramos was hired as a loader on March 28, 1970, at \$1.75 per hour and continued in that classification through September 4. Under the alleged policy, he should have received a 10-cent increase on April 28 to \$1.85 and a second 10-cent increase on June 28 to \$1.95. By September 4, he had received one nonretroactive increase of 10-cents to \$1.85 on August 3.

6. J. Walker was hired as a checker at \$1.90 per hour on June 6, 1969, and continued in that classification until September 7, 1969, when she quit. She resumed employment as a checker on November 11, 1969, and continued in that classification through September 4. Following the alleged policy, she should have received a 10-cent increase on July 6, 1969, to \$2.00; a second 10-cent increase on

September 6, 1969, to \$2.10; a third 10-cent increase on February 11, 1970, to \$2.20 (she was off work due to her quit from the day after her 90-day increase was due to November 11, 1969, so her 6-month service date is February 11, 1970); and a fourth increase of 10-cents on August 11, 1970, to \$2.30. She received a 10-cent increase on August 4, 1969, to \$2.00; a 10-cent increase on August 29, 1969, to \$2.10; a 10-cent increase on March 2, 1970, to \$2.20, and a 10-cent increase on June 8, 1970, to \$2.30.

The record further discloses that over a period extending back almost 2 years from September 4, 1970, only 7 retroactive wage increases were granted, while 19 retroactive increases were granted shortly before the election. Napier testified that many of the increases reflect his response to employee requests for raises; the records in most cases label the increases as "merit" increases, with a few stating they were "time" increases.

On the basis of the foregoing, as well as a perusal of the records of the balance of the employees, the Examiner finds and concludes that Angels - San Bernardino followed the wage policy set out in its May 1969 booklet both prior to the publication of that booklet and thereafter to September 4, 1970, *i.e.*, of granting increases whenever either an employee requested an increase (Napier testified this was the "usual" practice), or the unit manager got around to a performance review and, at his discretion, deemed them warranted.

F. Discussion and Ultimate Findings

On receiving notice in February of the Teamster petition, Angels - San Bernardino launched an investigation to ascertain the cause or causes for its employees' interest in union representation; the investigation disclosed that the major source of dissatisfaction was the belated receipt or nonreceipt of wage increases at times the employees anticipated or hoped to receive them (on alleged performance review after completion of 30 days, 90 days, and each 6 months of employment—as set out in the May 1969 employee handbook); shortly after the Region's September 4 rejection of its position that the only appropriate unit was one consisting of its entire chain of four stores and direction of an election among the Angels - San Bernardino unit employees, Angels - San Bernardino confirmed that its wage policy and practice was still the employees' major reason for seeking union representation; it then (September 24) advised the employees an election could probably be expected in mid-October and on the same date ordered wage increases for approximately 59 percent of the unit employees, including lump-sum retroactive payments to approximately 32 percent of its employees, following this up with advice to most, if not all, the unit employees just prior to the election that they were going to receive wage increases, followed by payment of same, coupled with an announcement that periodic wage increases would be paid in the future; following the election, it initiated similar wage adjustments at the other three stores and initiated a new policy of announcing the rate wages for each job, an automatic progression system within each rate range, and a declaration that the rate ranges would be adjusted annually in the future.

While the Act certainly recognizes the right of an

employer to preserve his practice of dealing with his employees on an individual and discretionary basis with regard to their wages, rates of pay, hours, and working conditions in the absence of contractual restrictions, to express his opposition to any union or unions seeking to represent his employees collectively with regard to those matters, and to seek to persuade his employees to vote for continued individual relations and against union representation, both the Board and the courts generally have held that grants of wage increases, including a substantial number of lump-sum retroactive payments to a large number of employees shortly before their vote in an election scheduled for the purpose of expressing their choice in the matter, interferes with, restrains, and coerces those employees in the exercise of their right to organize, form, join, or assist labor organizations and to bargain collectively through representatives of their own choosing, and violates Section 8(a)(1) of the Act.²⁴

The Examiner therefore finds and concludes that Angels - San Bernardino, by announcing and granting wage increases to most of the unit employees, including substantial lump-sum retroactive payments to a large number of them, shortly before the election scheduled in Case 31-RC-1360, interfered with, restrained, and coerced its employees in the exercise of their right to organize, join, form, assist, and bargain collectively through a collective-bargaining representative and thereby violated Section 8(a)(1) of the Act.

CONCLUSIONS OF LAW

1. Angels - San Bernardino is an employer engaged in commerce in a business affecting commerce, and the Teamsters and the Retail Clerks are labor organizations as those terms are defined in Section 2(2), (5), (6) and (7) of the Act.

2. By announcing and granting wage increases to a large number of the unit employees, including many lump-sum retroactive payments, shortly before the date the Region was scheduled to conduct an election among those employees to ascertain their desires concerning representa-

tion for collective-bargaining purposes, Angels - San Bernardino interfered with, coerced, and restrained the employees in question in the exercise of their rights under Section 7 of the Act and thereby violated Section 8(a)(1) of the Act.

3. The unfair labor practice just specified affects commerce as defined in the Act.

THE REMEDY

Having found that Angels - San Bernardino engaged in unfair labor practices in violation of Section 8(a)(1) of the Act, the Examiner shall recommend that it cease and desist therefrom and take affirmative action designed to effectuate the Act.

Upon the basis of the foregoing findings of fact, conclusions of law, and the entire record, and pursuant to Section 10(c) of the Act, the Examiner issues the following recommended:²⁵

ORDER

Angels - San Bernardino, its officers, agents, successors, and assigns, shall:

1. Cease and desist from announcing and granting wage increases to dissuade its employees from supporting the Teamsters and/or the Retail Clerks.

2. Post on its premises at places where notices to employees are customarily posted copies of the attached notice marked "Appendix".²⁶ Copies of such notice on forms furnished by the Regional Director for Region 31 shall be signed by an authorized representative of Angels - San Bernardino and posted immediately upon receipt thereof and maintained for a period of 60 days thereafter. Reasonable steps shall be taken to insure that the notices are not defaced, altered, or covered by other material; and

3. Notify the Regional Director for Region 31 in writing, within 20 days from the date of this Decision, what steps Angels - San Bernardino has taken to comply herewith.²⁷

²⁴ *NLRB v. Exchange Paris Co.*, 375 US 405, *Monroe*, 190 NLRB No 100, etc

²⁵ In the event no exceptions are filed as provided by Section 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, recommendations and Recommended Order herein shall, as provided in Section 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes

²⁶ In the event that the Board's Order is enforced by a Judgment of a

United States Court of Appeals, the words in the notice reading, "Posted by Order of the National Labor Relations Board" shall be changed to read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

²⁷ In the event that the Recommended Order is adopted by the Board, after exceptions have been filed, this provision shall be modified to read. "Notify the Regional Director for Region 31, in writing, within 20 days from the date of this Order, what steps Respondent has taken to comply herewith"